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THE CASE

OF

SAMUEL SHRIMPTON.

BY

WORTHINGTON CHAUNCEY FORD.

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SAMUEL SHRIMPTON.

At a meeting of the Massachusetts Historical Society, held in Boston, on Thursday, January 12, 1905, Mr. Charles C. Smith communicated for Mr. Worthington C. Ford, of Washington, D. C., a Corresponding Member, the following paper: —

The few known references in contemporary records to the matter of some hot-headed utterances of Samuel Shrimpton, and the attention they brought down upon him on the part of the authorities, were too indefinite to warrant further study. The discovery of certain documents in the Chamberlain Collection, now in the Boston Public Library, rounds out the story, and throws some light upon the methods pursued by the agents of the government to preserve their dignity and maintain their authority.

The origin of the incident lay in the administration by Shrimpton of his father's will. It will be recalled that the charter of Massachusetts was vacated in London in June, 1684, but a copy of the judgment of the forfeiture of the charter was not received at Boston until July 2, 1685, or more than a year after the event. In that interval Charles II. died (February 6, 1685) and James II. mounted the throne.

In April, 1685, a vessel reached Boston bringing intelligence of the death of Charles II. and the proclaiming of James II. king. No formal letter was received, because, the charter being vacated and no government yet appointed for Massachusetts, there was no responsible head. But the copies of proclamations and forms were sent as to the other colonies, without any mention of the Governor and the Company. A second letter, written to Bradstreet, Dudley, and others, told them to proclaim the king, advising them that it were best to do it early. Among those to whom this letter was sent was Samuel Shrimpton, and it was in this connection that the name first appears in the printed Diary of Samuel Sewall (I. 70). The new king was accordingly proclaimed in Boston, April 20, 1685.

In 1685 Peter Sergeant, and his wife, Elizabeth, raised a dispute with Shrimpton over the will, which was decided in favor of the latter.[1] In October, apparently soon after the judgment had been rendered, the Governor and Council amended the law on wills; or, to use the quaint phrase of that time, "the law about Wills is made into a new Edition." In November Shrimpton was summoned to answer to Sergeant under the new law, to which summons he made the not unreasonable reply that "the Court proceeded upon a Law made since the vacating of the charter, and therefore he should not attend."[2] This led Sewall to record, "so that this Monday we begin palpably to die," anticipating further decay in the authority of the Council under the administrative indefiniteness that existed.

The subsequent stages of the matter are shown in the following extracts from Sewall's Diary: —

December 14, 1685. "County-Court meets about Mr. Sergeant's Business chiefly: Mr. Shrimpton's Letter is read: but 'tis not agreed on to proceed, and some Heat, the Vote being in a mañer equal. Mr. Stoughton and Majr Richards not there. Mr. Shrimpton pleads that he has fullfilled his Father's Will dated July 17th One Thousand six hundred sixty and six: and cañot submit to this arbitrary way, especially as the Law [was] made since the Dissolution of the charter of this Place. Govr seems somewhat resolute: the Court Adjourned till Thorsday."[3]

Thursday, December 17, 1685. "At County-Court nothing done in Mr. Sergeant's Business: so he makes a speech when the Court open,

[1] Records of the Court of Assistants, I. 276.

[2] Diary of Samuel Sewall, I. 104, 110.

[3] *Ibid.*, 111.

that if the Court did nothing they would give him a Record of it, that he might go elsewhere for he would not be kept out of's Money; speaking warmly.

"Mr. Francis Stepney, the Dancing Master, desired a jury, so He and Mr. Shrimpton Bound in 50£ to Jan^r Court. Said Stepney is ordered not to keep a Dancing School; if he does will be taken in contempt and be proceeded with accordingly. Mr. Shrimpton muttered, saying he took it as a great favour that the Court would take his Bond for £50." [1]

Stepney was to have his jury "to try his speaking Blasphemous Words; and Reviling the Government." He was fined £100, of which £10 were to be paid down, "the rest respited until the last of March, that so [he] might go away if he would. He appeals: Mr. Shrimpton and Luscombe his sureties." [2] This entry shows that others than Shrimpton were critical on the methods of dispensing justice in the colony.

In February, 1686, another change was made in the law relating to wills, and the extent of the change will be best shown by a parallel: —

October, 1685	February, 1685–6
As an adition to the law, title Wills, it is ordered by this Court and the authority thereof, that the magistrates of each County Court in this jurisdiction, being annually chosen by the freemen, shall haue full power & authority (as the ordinary in England) to sum̃on any execcuto^r or execcuto^rs appointed to the will of any deceased person, who haue declared his or their acceptance of that trust by offering the sajd will for probate, or otherwise requiring him, her, or them to give bond, with sufficjent suretjes, for paying all debts and legacjes, or to make and exhibbit vnto the Court, vpon oath, a just and true	Whereas, the majestrates or members of the respective County Courts haue allwayes had power to receive & record all probates of wills, & of granting administrations &c^a, it is further ordered by this Court and the authority thereof, that each County Court within this jurisdiction shall haue full power & authority, From time to tjme, as they shall see cawse, to sum̃on any execcuto^r or execcuto^rs of any deceased persons last will & testament, legally proved & on record, to appeare before the sajd Court, and to require him, her, or them to make & exhibbit into the registry of the Court a just & true

[1] Diary of Samuel Sewall, I. 112.

[2] *Ibid.*, 121.

inventory of all the knoune lands, tennements, goods, & chattells of the deceased; and in case such execcuto^{r} or execcuto^{rs} shall neglect or refuse so to doe, sajd Court shall proceed against such person or persons by imposing a fine or fines vpon them, not exceeding tenn pounds p moneth for euery monthes default after the expiration of the time that shall be appointed by the sajd Court for bringiñ in an inventory; and vpon complaint of any creditor or legatory, they shall call any execcuto^{r} or execcuto^{rs} to render an account of his or their administration.

And it is further ordered, that the sajd Court shall haue full power to receive any information or complaint from any legatee or credito^{r} against any execcuto^{r} for the deteyning any legacy or any legacyes given by the testato^{r} or debt due from the sajd estate, and to grant sum̃on^{s} and process, as is vsuall in other cases, for the appearance of such execcuto^{r} or execcuto^{rs}, at dayes and place assigned by the sajd Court; and vpon neglect or refusall to appeare accordingly, the Court shall proceed to the hearing of the complaint, and to make their decree and determination thereon, and to grant forth execution for the fullfilling thereof; likewise, to heare & determine all cases relating to wills and administrations, and to make theire decrees and grant executions there vpon, al-

inventory, vpon oath, of all the knoune lands, teniements, goods, and chattells of the deceased, or to give bond with sufficient suertjes for the paying of all debts and legaties of the deceased. And in case such execcuto^{r} or execcuto^{rs} shall neglect or refuse so to do for the space of thirty dayes next after, or such further time that the sajd Court shall to them ljmitt & appoint, the Court shall proceed agâinst such persons, by imposing a fine or fines vpon them not exceeding tenn pounds p moneth for euery mon^{ths} default after the expiration of sajd time so appointed, also vpon the complaint of any credito^{r} or legatory to call any execcuto^{r} to render an accompt of his or their administration.

And it is further ordered by this Court & authority thereof, that the County Courts respectively shall haue full power to receive any information or complaint from any legatory or credito^{r} against the execcuto^{r} or execcuto^{rs} to the will of any deceased person, for the deteyning from him, her, or them any legaty or legatys givin by the testato^{r}, or debt due from the estate of such testators, and to grant forth sum̃ons or process; together with a copy of sajd complaint or information annexed, for the appearance of such execcuto^{r} or execcuto^{rs} before sajd Court, the sajd warrant, with the libell annexed, to be served fowerteen dayes inclusively before the day appointed for appearance; and it shall be in the power of the Court to order the time of hearing at

lowing to the party agrieved liberty of appeale to the magistrates of the next Court of Assistants, such partjes attending the law as in other cases respecting appeales; alwayes provided, that where matter of is controverted, then either plaintiff or defendant may haue a tryal thereof by a jury, if it be desired, w^th^ liberty of appeale to the next Court of Assistants, as the law directs, any law vsage, or custome to the contrary notwithstanding.[1]

their first sessions, or at any adjournment of sajd Court as to them shall seeme meet. And vpon neglect or refusal of such person or persons to appeare accordingly, the Court shall proceed to the hearing of the case, and make their judgment or decree therein, & grant forth executions for the fulfilling thereof; likewise to heare & determine all cases relateing vnto wills and administrations, and to grant forth executions vpon their judgment given therein.

Allwayes provided, that when matter of fact is controverted, then either plaint or defendand desiring the same before issue be joyned, may haue a tryall thereof by a jury to be forthwith sumoned by warrant from sajd Court; if there be no jury then empannelled, the sajd party or partjes making theire whole plea or allegation as to all matters of fact at their first hearing and answer, that justice may not be delayed, allowing liberty for any party agreeved at the judgment and determination of the Court, or virdict of the jury, to appeale to the next Court of Assistants, giving in their reasons of appeale as the law directs in either cases; and euery person, before his complaint be received or admitted, shall give caution vnto the Court to the vallue of tenn pounds in money to respond all such charges & fees as the Court shall award, any law, vsage, or custome to the contrary notwithstanding, provided, that law shall not be vnderstood to debarr any person or persons from proceeding in the former & vsuall course of law for the recouery of any debt or legacy due from the estate of the deceased person expressly determined by will.[2]

The ink was hardly dry before Sergeant hastened to begin proceedings: —

"Thorsday, Feb. 25. The Law about Wills and Administrations is published; and almost as soon as the Drumm had done beating, Mr. Serj^t^ comes with his Petition: and an order is made for a Hearing next Monday; 3 weeks, the 22^d^ of March: some would have had it sooner, and Mr. Nowel and Self thought it very indecent that it was so soon,

[1] Records of Massachusetts-Bay, v. 503.

[2] *Ibid.*, 508.

especially considering, the Order made upon a Law scarce yet out of the Marshal's Mouth." [1]

This produced the catastrophe: —

Tuesday, March 23. "Hear of the sad consequences of yesterday's County-Court, Mr. Shrimpton's saying there was no Governour and Company. Heat between the Members of the Court. I can't yet understand that Mr. Nowell, Cook, or Hutchinson were there. Some are much offended that Mr. Shrimpton was not sent to Prison." [2]

The story may now be told by the documents in the case found in the Chamberlain collection: —

ORDER OF THE COURT.

The Honourable Gov^r & Mag^r lately assembled in y^e Count Court at Boston, Do informe the Councill now assembled that M^r Samuel Shrimpton being sumoned to attend s^d Court in a Civill case, in a Proud & Contemptuous manner declared hims: y^t there was no Gov^r & Company, of w^ch the Gov^r had [*illegible*] & therefore he would make no answ^r to y^e sumons given him for his appearance & added thereunto sevrall revileing words ag^t y^r Gov^r: [3]

Boston, 26 March 1686, upon w^ch The Court ordered y^e marshall to goe & tell M^r Shrimpton That the Court would speak w^th him. W^ch he did & Returnd he was home to Nodles Island & sayd he had left Information & that they would send to him & y^e Court Adjournd till 5^th day next 1^st Aprill 86 & ordered y^e Secretary to lett M^r Shrimpton know y^t at y^t time he should attend y^e Court presently after y^r leisure. E R S. [4]

Endorsed: Complaint ag^t M^r Samuell Shrimpton: to y^e Council, 26 of March 1686. [5]

SHRIMPTON'S STATEMENT.

I did say, There is no Governour and Company of this Place in being, That the Govern^r had A Signification of the Dissolution of the Charter of this Colony and that I was not willing to Submit to Laws made since that day. And what I said to the Govern^r as to wrong done, I then Explained to be only in Reference to an Arbitration wherein his Hono^r was one, and without any Reflection with respect to any Judiciall Act: And if any heat then expressed it was occasioned by my being call'd after two or Three Thieves, and as I apprehended at M^r Sergeant's Choice, The Govern^r asking him If he would Then have

[1] Diary of Samuel Sewall, I. 123. [2] *Ibid.*, 128.
[3] This first part is in the writing of Thomas Danforth.
[4] Edward Rawson, Secretary. [5] Cham. E. 13. 67.

his Cause Called Saying there was but a thin Court, notwithstanding the Five Senior Magistrates of the County were present. The perticulars above, I yet aver to be True and if put upon it shall Endeavour to prove.

And I am your Honors Humble Servant

SAM[L]: SHRIMPTON.

BOSTON, April 1° 1686.[1]

INDICTMENT OF THE GRAND JURY.

Wee the Grand Jury for our soveraign Lord the King for the Massachusetts Colony present & Indicte M[r] Samuel Shrimpton of Boston merchant for that he at the County Court sitting in Boston on the 22[th] of March last, in a Contemptuous violent & seditious manner & with a loud voyce did in open Court say that he was brought there by M[r] serjants order & not by the Courts & that he denyed any such thing in being as Govern[r] & Company of the Colony and that he stood there to justify it & denyed their power and they might send him to prison if they pleased, which words in the same manner he repeated over & over againe with divers other seditious words & expressions as by the evidences will & may Appeare, thereby defaming the Generall Court & said County Court and Caused such a tumult in the Court as evidently tended to the high breach of his maj[ties] peace & great scandall & reproach of his maj[ties] Government here & all this Contrary to the peace of our Soveraign Lord the King his Crowne & Dignity & the laws of God & of this Jurisdiction & particularly [the law title Courts Sect 6:]

Wee finde this bill & leave it to further Tryall.

PENN TOWNSEND Foreman
in the names of the rest of the jury.

22. 2: 86 This Indictment was received in upper court the 17[th] of Aprill 1686 = Edw[d]. Rawson Secr[y] [2]

DRAFT OF WARRANT.[3]

To Jn° Green marshall Generall or his lawfull Deputy.

In his Maj[t]yes name you are by vertue of an orde[r] of the Court of Assistants required to Attach the Person of M[r] Samuell Shrimpton of Boston merchant & Require him to Give you his Bond w[th] suretyes

[1] Cham. E. 13. 57. The paper is printed in part in the Records of the Court of Assistants, I. 297. Those Records also give (298) an account of the appearance of Shrimpton before the Court on April 15, and his demand to be tried by a jury.

[2] *Ibid.*, 61. It is printed in the Records of the Court of Assistants, I. 299.

[3] This warrant was issued as Shrimpton had not appeared before the Court, as ordered.

in a thousand pounds for his personall appearance before the Court of Assistants to sitt in Boston on the 22th Instant at two of the clock in the afternoon on their adjournm^t^ to Ans^r^ what is layd to his charge by the Virdict of the Grand Jury given in on the day of the date hereof against him & in Case of his Refusall to give bond you are In like manner Required to Comitt him to y^e^ prison in Boston till the Courts Adjournm^t^ Make your Returne and fayle at you^r^ perill Dated in Boston 17th of April 16[86] By y^e^ Court

EDWARD RAWSON, *Secret.*[1]

WARRANT AS ISSUED.

To Jn° Greene Marshall Generall or his lawfull Deputy.

In his Maj^ties^ name you are required to app^re^hend the body of M^r^ Samuel Shrimpton of Boston merchant & require of him bond with suretyes in one thousand pounds ste^rlg^ for his personall appearance at the Court of Assistants to be held by Adjournment at Boston the 22th Instant at two of the clocke in the afternoone to make his answer to the p^r^sentm^t^ of the Grand Jury by them given in against him at the Court of Assistants held at Boston the day of the date hereof for his seditious Carriage w^th^ a high hand in open County Court in Boston 22th march last & Contempt of his Maj^tyes^ authority as is most particularly expressed in said Indictment, and on his faleur to give bond as is above required you are to Comitt him to safe keeping in the prison in Boston hereof you are to make a true returne under y^r^ hand & faile not at you^r^ perrill. Dated in Boston 17 Aprill 1686.

By y^e^ speciall orde^r^ of the Court of Assistants

EDWARD RAWSON *Secrety.*

ENDORSEMENT.

22 April 1686

I have apprehended the body of M^r^ Samuel Shrimpton of Boston merchant by vertue of the within warrant by order of the Court of Assistants under the hand of M^r^ Edward Rawson Secretary bearing date the 17 of Aprill 1686. and did then require bond of him the said M^r^ Samuel Shrimpton in the sum of one thousand pounds sterling according to the within warrant he refuseing to give bond according to y^e^ said warrant I have comitted him to y^e^ safe keeping of the prisonkeeper in Boston by vertue of the within warrant.

JOHN GREEN *Marsh^ll^ Generall.*[2]

[1] Cham. E. 13. 63. Probably the first form of the next paper or actual warrant issued.

[2] *Ibid.*, 62.

SHRIMPTON TO THE SECRETARY.

April 17ᵗʰ 1686

Mᴿ Secretary.

Sᴿ, — I am Informed that the Governʳ & Magistrates are in Expectation of my appearance at the Barr this Morning, but I can not tell in what form of Law. I was neither Committed to Prison, nor bound over, nor so much as Injoin'd to Appeare, nor ever gave my word for Appearance, nor have I received any Copy of my Charge to prepare Answer, and therefore am of Opinion that my Attending the Court at this time can not Issue the matter charg'd upon me. I hope I may expect the Favour & Just procedure of Law against me, as the Law provides for every English man. I am

Sʳ Yoʳ Servᵗᵗ

Samuel Shrimpton.

Endorsed "Read in Court 17 Aprill 1686[1]

SHRIMPTON'S STATEMENT.

To the Honoured Court of Assistants now sitting in Boston Samuel Shrimpton humbly Sheweth.

That as to what Lately happened from me in the County Court I do acknowledge that notwithstanding the provocation that I then thought was given me The Passion that was moved in me, & the mañer of my Expression & managemᵗ thereupon was very Intemperate, unjustifyable and Evil; and so much I would willingly have acknowledged upon the recollecting my selfe, had the Court at that time given the Oppertunity as I wish they had; It is well known I have never been an Enimy to the Governmᵗ here Established; nor desirous of its overturning, but have been Obedient to it and served the Publick willingly & Chearfully at all times according to my Capacity; and wish I might have Oppertunity so to doe still for many a Day: so that I do truly affirme, that it was not at all in my Intention and I am Confident also not in my Words to deny the being of Government or of Courts for the Exercise there of in the common & ordinary way of Justice and usuall proceedings amongst us: all that I denied was with reference to that new Law & method of proceedings established since Judgment given against the Charter according to which I was then prosecuted, This formerly and at that time was my Plea in Law & Legall Defence in the case, from which I do not nor can not depart, hoping that such an Opinion in point of Law & the pleading there of will not in any of his maᵗᶦᵉˢ courts be Judged to make me so high a Criminall, and if this that I now say may be so far accepted by this honoᵇˡᵉ Court as to pass by my Errours of Passion I shall greatly Rejoyce, however I am sorry

[1] Cham. E. 13. 64.

L. of C.

I have been the Occasion of so much trouble to the court & was not then so fully sensible of the Ill consequence, not Intending the weakning the hands of Authority by any Reflections.

I am

Yo^{r} hono^{rs} humble Servant

Sam^{L} Shrimpton.

[22 April, 1686'] [1]

SHRIMPTON'S PLEA.

Samuel Shrimpton being to appeare at the Court of Assistants sitting in Boston by adjournment April the 22^{d} 1686 to answer to an Indictment or presentment found against him by a Grand Jury whereof Pen Townsend was Foreman, Pleads not Gilty of any Crime the punishment whereof is Loss of Life, Member or Banishment, or belongs to the Court of Assistants to heare and Determine. In the Indictment or presentment there is to be considdered.

1° The matter of Fact, The Words Spoken, : 2^{d} The Place Where. 3^{d} The time when. 4th The mañer how the words were spoken, In a contemptuous, violent & seditious mañer, & with a Loud Voice. 5° The Effect they wrought, Defaming the Generall Court & County Court and caused such a Tumult in the Court as Evidently tended to the High breach of his Ma^{ties} Peace and Great Scandall of his Ma^{ties} Government here. 6th The Conclusion, Contrary to the peace of our sovereign Lord the King his Crown and Dignity, and the Laws of God and of this Jurisdiction, and particularly the Law Title Courts Section the Sixth.

1° The Words said to be Spoken, That I was brought there by M^{r} Sergeant's order and not by the Courts, If they were Spoken were occasioned by the Governo^{rs} speaking to M^{r} Sergeant once and againe, asking him whether he would have his Case called or no, alledging it was but a Thin Court. So that in my apprehention it was wholly & absolutely at M^{r} Sergeant's [*illegible*] whether I should be called at that Court or not, allthough the Court was Adjourned purposely for my tryall, which I counted a Favour to M^{r} Sergeant & Disfavour to me more then either of us deserved and more than I Expected.

2^{d} The Place where the words were spoken, namely at the County Court sitting in Boston.

3^{d} The Time When, was the 22^{d} of March last, by the Indictment no man can tell when that was, because the Indictment is without Date. I humbly concieve it is void & null by Reason of the want of a Date, The Time, the Day, & Year when the offence was Committed, as well as The Place Town & County where it was done, is Essential to the very being of an Indictment, The Laws and Customs of England

[1] Cham. E. 13. 60.

evince it, and agreeable therewith is the Law of this Jurisdiction, Title Indictments, The Indictment must be made & Exhibited within one Year after the Offence Committed or the Indictment is void and of none Effect, who can tell by this Indictment when the Fact was Committed? or when the Indictment was made or Exhibited? But if it be alledged That the Date to the Indictment may be added or the Time when the Fact was done otherwise manifested; I answer I am of Opinion (1°) That the Date can not be Supplied. The Jury is Dissolved and hath no being and therefore can not Act; That which hath no Essence, Can not have Action.

The Court can not add the Date because it is Post Factum after the Inquest, and Return of the Bill, and if there be either Addition or Diminution or any Alteration, it is not the Same Bill which the Inquest found, but anoth^{r} which was never before their Consideration. (2^{d}) I conceive that the Time when the Fact was Committed and the Indictment Exhibited can not be proved by the Witnesses because it is not contained in the Bill; Let what will be contained in the Evidences, Yet the jury have found no more than is Contained in the Bill, and no more nor no less am I to Plead unto: For althô the Jury have found I spake such words, They have not found when, & so indeed have not found any thing, and therefore I humbly think the Bill is void & of none Effect. I pray yo^{r} hono^{rs} to considder it.

An Attachment for but Fourty Shillings if it hath no Date will be voide and no Tryall or Judgment can pass thereupon, Then surely by the like Reason, an Indictment without date it being of a farr higher nature whereby Life, Limb, or Liberty is hazarded upon the tryall ought to be void. The higher the fact the more exactly Legall in all Respects ought the proceedings to be.

4° For the mañer of Speaking the words, I confess that what words I spake was uttered with too Loud a voice, & in too violent, A mañer, for which I am hartily Sorry and humbly Crave yo^{r} pardon. I was provoked and moved into Passion by the Sence of that Indignity & Ignominy that was put upon me by being called amongst Theives & Rogues, at the pleasure of my Adversary: and if they were Contemptuous, yet [*rotted away*] breach of any Law the Penalty whereof is Loss of Life Member or Banishment, nor do I know why the Word Seditious is put into the Bill, except because one of the Wittnesses whose venerable esteem [of his?] own parts and knowledge moved him out of his own low Sphære of Wittness into the high one of a Judge, whose Zeale, Pride or Envy carried him above the Worke of a Wittness of Giving his Evidence in the matter of Fact which he was Called unto, Into the place of a Judge in giving a name to the Fact which he never was call'd unto, which Insolence deserves Reproof, rather than his Integrity merrits Applause.

5° Concerning the Effect which the Words wrought, They did not Defame the Generall Court nor County Court, They had no relation unto them but unto the Govern^r & Company; I suppose there is a Distinction between the Govern^r & Company, & the Generall Court & the County Court, The Gov^r & Company I think consists of the Govern^r & all the Freemen; The Generall Court consists of the Govern^r or Deputy Govern^r Assistants & Freemen's Deputyes or Representatives: The County Court consist of any Three Magistrates, I never defamed the Generall Court, nor any other Court, I spake not of Courts but of the Govern^r & Company whose being I denied, and not of Courts, whose Existence might be continued by his Ma^ties Gratious Proclamation, notwithstanding the Charters Condemnation.

6° As for the Conclusion I deny it, Those words were not contrary to the Peace of our Sovereign Lord the King his Crown and Dignity, Nor Contrary to the Laws of God, or this Jurisdiction, nor no breach of the Law, Title Courts Section the Sixth, The Peace of the King was not violated for as much as at first Comand of the Govern^r, the Court was cleared & the Peace preserved: The Kings Crown & Dignity no wayes opposed or detracted from, Nothing of the Kings Govern^t here, denied: but only the manner of the Existence of it in the Govern^r & Company of the Massachusetts, By virtue of the Charter which is vacated; which in good Consequence is an Asserting of the power of Govern^t here to exist in the King, and by virtue of the Kings Proclamation in those persons in Authority; Therefore not against the Kings Crown & Dignity.

Neither against the Law of God nor the Laws of this Jurisdiction know no Law I have broken, But in Spetiall mañer the Law title Courts Section Sixth, not broken. I have not Defamed any Court of Justice, I spake not a word of Courts or their Sentences, The Govern^r & Company never was a Court. I hope by what is premised it will appear 1° That the Indictment found against me is void & of none Effect, having no Date, and therefore ought by Law to be Quash'd. 2^d that I am not gilty of the breach of any Law the penalty whereof is Loss of Life, Member or Banishment, nor of any crime Cognis [*illegible*] at the Court of Assistants, nor gilty of the breach of the Law Title Courts Section Sixth, not having defamed any Court, nor having spoke any thing concerning any Court or their Judgments or Sentences [*illegible*] of the Being of the Govern^r & Company which I did deny, it being my Opinion, and if that be a Crime it is not Defamation of any Court, but the most is Contempt, which lieth not at this Court.

Neither have I been an Enemy to this Jurisdiction, but have been allwayes Willing & Ready with my person & Estate to suport the same, in the same way it was settled by the Patent, and should be Glad if it

was the Kings Pleasure to Reestablish it upon its old Foundation & Basis, being not Desirous of Innovation but of Reformation.

SAMUEL SHRIMPTON.

Endorsed: Mr Shrimptons Plea put in & was read in open Ct of Assts 22th of Aprill 1686

SHRIMPTON'S OBJECTIONS.

I can not nor ought to plead to this Indictment for Severall Reasons.

1° It is not made in due form of Law, For it doth not mention the County where the offence was committed, The word New England is a Generall word, it may be done in the County of Essex or Norfolk or any other County & thō afterwards tis sd the Grand Jury for the Massachusetts Colony, do Indict &c yet names not the County where the offence was done, nor for what County they serve, nor where they did meet or where the Indictmt was taken, Now the Law is positive. That the County as well as ye Town must be Express'd. v. Ship: Country Justs p. 133. & Pract: Registr p. 136.

2d The Indictmt is not Dated, neither the year of or Lord nor the Year of the King mentioned, nor the month nor Day, & so is uncertain nor doth appear when it was done, therefore Defective in an Essentiall part, The Law is Positive That this ought to be expressed, neither can it afterwards be supplied by averment or Implication. Pract. Registr p. 122. & 136. Ship: Country Jus: 115: 126 p: 138. Duty G: Jurys p: 139. & 140.

3d In the Indictmt there is words Inserted, that are not in the Law or Statute wch it is founded upon, The Indictmt saith [In the Law Title Courts sect 6th] wch Law speaks about Defaming, but not a word of Contempt, violence or Sedition. Now the Law is plain, That an Indictmt framed upon a Statute ought only to pserve the words of ye Statute. Pract: Registr p: 121. 137.

4. The Indictmt referrs to the Evidences without naming what, or whose evidences, & so in effect referrs to nothing, The witnesses Names & Dates of their evidences ought to have been Incerted in ye Indictmt.

5° By the Laws & Customs of England all the Jurors as well as the Foreman, should subscribe their names, or else the Indictmt is defective wch in this case was not Done.

So that upon the whole I say, The County & Time being wholly uncertain, & words being Introduced besides & not psuant to the words of the Law or Statute on wch the Indictmt is founded & the referring to evidences without naming ye witnesses & the Dates of their Testimonies to wch it referrs, & finally not Duely signed by all of them (The Least of wch objections is abundantly sufficient to Quash the Indictmt) I can

not see any Ground or Reason for me to plead or make answ^r to y^e Indictm^t

SAMUEL SHRIMPTON.

Endorsed: Mr. Shrimpton's Objections sent in by y^e Marshall Gen^ll 22 Aprill (86).[1]

With this paper end the records relating to this colonial incident. I think the case of Shrimpton is interesting as an exhibition of the exercise of arbitrary power. Although the following paper has no relation to this case, I add it as one of the few letters of Shrimpton to be found.

BOSTON, March 2^d, 1685/6

An Answer to Hudson Leverett Attorney to Richard Pateshall plan^t his Reasons of Appeale, From the Judgment of the County Court, for Suffolk 27° Octob^r last, To the Hono^ble Court of Assistants now Sitting: Exhibited by Samuel Shrimpton in behalf of Stephen Haskott Defend^t s^d Shrimpton being Security for the s^d Haskott. viz^t

1° The Bill which Haskett gave to Pateshall was Conditionall, with proviso, that Israel Thorne should not be forced, or taken away by force of Law. Now to say, That an Impress by ord^r of the General Court or of the Governo^r & Councill, is not, or hath not the force of Law, is at once to Strike at both the Law & also the power & authority of the General Court, (the highest in this Jurisdiction) The Ill Consequences where of would be needless to Enumerate.

2^d That the s^d Israel Thorne was Impressed by Order from Authority & did go & Serve in the Indian Warrs, whereby the said Haskett was wholly Frustrated of his Work & Service, (The only occasion & Reason of his Bill to Pateshall) and that he did not againe returne. & enter into the Service of the s^d Haskott as is Falatiously pretended, was by the papers then given in, made plain & evident to the County Court & Jury, and undoubtedly will so appeare (when duely Considered) unto this Hono^ble Court & Gent of the Jury notwithstanding the vain & false Pleas & Suggestions to the Contrary expressed in the Appellants Irrationall and Impertinent Paraphrase upon the Proviso-Clause, in the Bill will be no Just Ground or Occasion to Reverse the former Judgment, But that the Bill it selfe will be found void & null, The Condition therein Express'd not being performed, and Consequently that the former Judgment will be Confirmed w^th Costs &^c All which is humbly offered in behalf of the Defend^t by

Yo^r Hono^rs Humb^e Serv^tt

SAMUEL SHRIMPTON.[2]

[1] Cham. E. 13. 65.

[2] *Ibid.*, 59.

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